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CHARLES ELMORE CROPLEY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1947

No. 401

WILLIE MELMOTH BOMAR,

Petitioner,

vs.

ROWENA KEITH KEYES AND THE CITY OF NEW YORK,

Respondents

PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

To the Honorables, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Your petitioner, Willie Melmoth Bomar, respectfully submits her petition for the rehearing of her petition for a writ of certiorari to review the findings of the United States Circuit Court of Appeals for the Second Circuit in the above entitled case to determine the status of the City of New York as a defendant; and to order a change of venue so that the case may go to a jury in an atmosphere free

from the bias and prejudice which have been manifest in the hearings held, so far, in New York.

Statement of Facts

Under date of October 24, 1947, petitioner filed her petition for writ of certiorari to review the findings of the United States Circuit Court of Appeals for the Second Circuit to determine the status of the City of New York as a defendant and to order a change of venue so that the case may go to a jury in an atmosphere free from the bias and prejudice which have been manifest in the hearings held, so far, in New York.

After such filing, petitioner heard nothing further from Court nor defendants until on the morning of Tuesday, November 18th (1947) she received the telegram which is here reproduced saying that her petition had been denied by the Court on November 17th, 1947.

(Here follows 1 Photolithograph of Telegram)

CLASS OF SERVICE

This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION

1204

A. N. WILLIAMS
PRESIDENT

SYMBOLS
DL = Day Letter
NT = Overnight Telegram
LC = Deferred Cable
NLT = Cable Night Letter
Ship Radiogram

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12 Collect 52-13-65 3EAtr

Washington DC Via Glenwood,Ga.17

Willie Melmouth Bomar.
Leesburg,Ga.

Petition for Certiorari Bomar Against Keys Denied today.

Charles Elmore Cropley Clerk.

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

It was not until *November 24,* 1947, that petitioner received copies of the answer made by defendants, through their counsel of the office of the Corporation Counsel of the City of New York, to her petition. That answer was dated *November 3,* 1947; and the envelope containing it, addressed to petitioner in New York, was postmarked in New York on *November 7,* 1947. A copy of the face of that envelope is here reproduced.

(Here follows 1 Photolithograph of Envelope)

LAW DEPARTMENT
CITY OF NEW YORK
MUNICIPAL BUILDING
NEW YORK 7, N. Y.

THIS IS T... STAMP WHICH YOU ...







NOV 7 - 1947

Willie Melnoth Bomar
General Delivery Leesburg, Ga.



The long delay in the forwarding of that envelope to petitioner from New York to Leesburg, Georgia, has not been explained. Nor has any other mail addressed to petitioner ever been so delayed in transit.

Replication

In replication to the answer interposed by counsel for the defendants and in this petition to the Court for a rehearing, petitioner wishes to point out that the counsel representing the defendants are from the office of the Corporation Counsel of the City of New York. The Board of Education of the City of New York has counsel assigned to it—paid, of course, by the City of New York, as are all of the other City employees. This, of itself, brands the defendants' claim (p. 5 of defendants' answer, lines 16 and 17) that "The Board of Education is not a department of the New York City government" as a factual absurdity and a legal monstrosity, born of a perverted desire to distort all phases of the law of agency. The City of New York, which exercises its powers to levy taxes for the support of its schools, is the financial parent and thus the principal in any action involving any of its educational employees. It is the City of New York which levies taxes and pays the salaries; and makes provision for pensions upon retirement. It is the City of New York, not the Board of Education, which has furnished counsel, from the staff of the Corporation Counsel of the City of New York, for defendant Keyes, a former educational employee and now a city pensioner. It is the City of New York which paid petitioner's salary until she was dismissed from the City as an educational employee after a charge of *Neglect of Duty* had been made against her as follows:

> "From March 7th to April 4th Dr. Bomar was absent on jury duty 19 days. Since jury duty for women is

> granted only on their application and since two weeks is the usual limit for such service, I feel that 19 days or four weeks was an excessive amount of time to take from her classes."

Respondents make the claim that petitioner's services were rated "unsatisfactory." Does the above charge of *Neglect of Duty* imply unsatisfactory service? To the contrary, the connotation is clearly services of a highly satisfactory nature, otherwise why the plaint of an "excessive amount of time" taken from her classes. Any school principal with a modicum of regard for pupils' welfare would be glad for an "unsatisfactory" teacher to remain away from her classes indefinitely.

The utter lack of sincerity and good faith of respondents' claim of "unsatisfactory" service on the part of petitioner is shown by the fact that during the entire school year of 1938-1939 petitioner's teaching load was the most arduous and excessive of that of any teacher in the Girls' High School, the school over which respondent Rowena K. Keyes presided as a probationary principal. To attempt to sustain any charge of "unsatisfactory" service on the part of petitioner automatically convicts respondent Keyes of a willful and malicious disregard for pupils' welfare. For, certainly, any school principal with any regard whatsoever for pupil welfare would not subject an unduly large number of them to "unsatisfactory" teaching.

In the light of such conditions, respondents' claim of "unsatisfactory" in regard to petitioner's services can not be heard. It is entirely in keeping with the hypocrisy, sham and dishonesty of purpose exemplified by the City of New York through its agent Rowena Keyes when she made this startling declaration against petitioner, under a heading "Conduct Unbecoming a Teacher":

> "Dr. Bomar took it upon herself to investigate records at the Board of Education in an effort to prove

> that Mrs. Klee, who had received her permanent license under the Jarema Law, had been given credit for more experience than she was entitled to. *She succeeded in proving her point.* [Italics mine.] Her action could bring no advantage to Dr. Bomar herself and would seem, therefore, to have been prompted by sheer ill will."

Certainly the disclosure of irregularities in the disbursement of public funds and the violations of rules in a so-called "merit" system of public education should be received with gratitude where there is any honesty of purpose or any degree of professional integrity in the conduct of such public affairs. But when respondents, City of New York as the financial principal, and Rowena Keyes as its agent, charged petitioner with being prompted by "sheer ill will" because she was successful in showing up the sham, hypocrisy and dishonesty existing in New York City's public education system, they—the respondents, sank far down into the mire of professional racketeering and drank deep at the fount of "smearing" as inspired and practiced by those who follow the totalitarian idea in government which is diametrically opposed to the democratic ideal which is *supposed still to exist in America.* Small wonder that popular magazines are publicizing the authoritative report that pupils in New York's schools "are not prepared to be useful citizens"! (*Readers' Digest*, December, 1947, p. 16.) How can pupils be prepared for useful citizenship in an atmosphere of fraud, hypocrisy and deceit characterized by the penalization of a teacher because of her performance of the duties of citizenship?

Petitioner here presents a copy of one of her author's cards as found in the New York City library and other large city and university libraries throughout the land. It shows her interest in women as participants in community life.

Because of that study as a background, petitioner has a particular interest in the attitude of the Courts in her fight for the right to perform obligations of citizenship without penalization.

(Here follows 1 Photolithograph of Author's Card)

Education, Adult—U.S.

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Bomar, Willie Melmoth, 1894–

The education of homemakers for community activities; a study of the community interests and activities of representative homemakers to discover certain needs for home economics education, by Willie Melmoth Bomar ... New York city, Teachers college, Columbia university, 1931.

viii, 135 p. 23½cm. (Teachers college, Columbia university. Contributions to education, no. 477)

Published also as thesis (PH. D.) Columbia university.

1. Women in public life. 2. Woman—Societies and clubs. 3. Cities and towns—Civic improvement. 4. Education of women. 5. Domestic economy—Study and teaching. I. Title.

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LB5.C8 no. 477
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31-29619

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The Attorney General of the State of New York has declared (*Civil Service Leader,* Tuesday, August 26, 1947): "It would be indeed a niggardly public policy for the State to open the door to jury service as a public duty for women and then to make such service a penalty to those who sought to perform their duty. Not only should there be no question of loss of salary when absence is caused by jury service duties, but State employees should in no way be deterred from rendering such service. No deduction should be made."

Petitioner not only suffered loss of salary because of her performance, while an employee of the City of New York, of Federal jury service, but she was further penalized by dismissal from her position as an educational employee of the City of New York after the following charge of *Neglect of Duty* was made against her by Rowena Keyes, agent for the financial principal, City of New York:

> "From March 7th to April 4th Dr. Bomar was absent on jury duty 19 days. Since jury duty for women is granted only on their application and since two weeks is the usual limit for such service, I feel that 19 days or four weeks was an excessive amount of time to take from her classes."

Respondents, through their counsel of the office of the Corporation Counsel of the City of New York, claim that because petitioner's status was only that of a probationary teacher, she can not be heard. But petitioner contends that a probationary teacher in the public education system of the City of New York can retain her status as an American citizen. And when her rights as an American citizen are trampled under foot and she is penalized by the City from which she has drawn her support while engaged as an educational employee to the extent of deprivation of means of livelihood for having exercised the privileges of Ameri-

can citizenship, then, surely that teacher, as an American citizen, can look to the Federal courts for redress in damages for the injuries she has suffered, else the so-called American democracy becomes merely a sham and pretense and a hollow mockery of the form of government for which rivers of American blood has been shed.

Petitioner respectfully requests the Court to declare immaterial, incompetent and irrelevant to this action any decisions heretofore arrived at by New York State officials and courts, because in no instance were such officials competent to pass upon the issues at stake in this action, *i. e.*, redress in the form of damages because of the violation of her civil rights by the financial principal, City of New York and its agent, Rowena Keyes.

This action rests solely on this charge of *Neglect of Duty:*

> "From March 7th to April 4th Dr. Bomar was absent on jury duty 19 days. Since jury duty for women is granted only on their application and since two weeks is the usual limit for such service, I feel that 19 days or four weeks was an excessive amount of time to take from her classes,"

after which petitioner was dismissed from her position as an employee of the City of New York. Only the Federal Courts are competent to act in such a case where redress is sought in the form of damages from the respondents who willfully and maliciously violated petitioner's rights of American citizenship.

Pursuant to § 394 a-1.0 of Title A, Chapter 16, of the New York City Charter and Administrative Code, petitioner presented her claim for damages to the Comptroller of the City of New York more than thirty days previous to the filing of her complaint in the Federal Court.

In order that time, money and effort may be saved, petitioner, as an American citizen seeking her day in court,

respectfully requests this Court to reconsider its denial of her petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit so that clarification of the status of the City of New York as a defendant may be made; and a change of venue granted so that this action may proceed in an atmosphere free from the bias and prejudice which have characterized the procedures in the New York courts.

Respectfully submitted,

WILLIE MELMOTH BOMAR,
Petitioner, pro se.

(3759)